

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket: TAKEUCHI=10

In re Application of:	)	Conf. No.: 2221
	)	
Kanou TAKEUCHI et al.	)	Art Unit: 1609
	)	
Appln. No.: 10/539,138	)	Examiner: Jonathan S. Lau
	)	
Filing Date: December 15, 2003	)	Washington D.C.
371(c) Date: June 16, 2005	)	
	)	
For: METHOD FOR KEEPING THE	)	September 24, 2007
LEVEL OF MOISTURE IN...	)	<u>MONDAY</u>

REPLY TO RESTRICTION REQUIREMENT/ELECTION

Honorable Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop Amendment  
Randolph Building, 401 Dulany Street  
Alexandria, VA 22314

Sir:

Applicants are in receipt of the Office Action of August 23, 2007, in the nature of restriction and election requirements reportedly based on lack of unity of invention under the applicable PCT rules 13.1 and 13.2. Applicants reply below:

First, however, applicants respectfully request the PTO to acknowledge receipt of applicants' papers filed under section 119.

Lack of unity of invention has been held to exist among three (3) groups. As applicants must make an election even when the requirement is traversed, applicants hereby respectfully and provisionally elect Group I, presently claims 1-5, 12-15 and 17, with traverse and without prejudice.

As regards a species election, applicants hereby respectfully and provisionally elect  $\alpha,\alpha$ -trehalose as the species which is incorporated in combination with a saccharide derivative of  $\alpha,\alpha$ -trehalose, support being found at page 24, line 11 of applicants' specification. All the elected Group I claims 1-5, 12-15 and 17, read on the elected species.

The PTO holds that Groups I-III lack the same corresponding special technical features, and therefore unity of invention is destroyed, because of the Maruta et al, USP 6,017,899 (Maruta). Applicants respectfully disagree because all of Groups I-III are based on the new findings that moisture variation in a composition is inhibited by incorporating a saccharide derivative of  $\alpha,\alpha$ -trehalose therein. Maruta discloses no such subject matter, nor would any such subject matter have obvious from Maruta. Accordingly, all three groups share the same corresponding technical feature of inhibiting moisture variation by the incorporation of a saccharide derivative of  $\alpha,\alpha$ -trehalose.

Moreover, even ignoring the common special technical feature, the invention of Groups I-III are closely related, and it would not constitute a serious burden to examine all of applicants' claims, bearing in mind that the Examiner should be guided by the second paragraph of MPEP 803.

Withdrawal of the requirements and examination on the merits of all the claims on the merits are respectfully requested.

Respectfully submitted,

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